

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CAREMARK, INC., d/b/a CAREMARK THERAPEUTIC
SERVICES,

Civil Action No.:
07 Civ. 5941 (LTS) (FM)

Plaintiffs,

-against-

UNITED HEALTH CARE, ANCILLARY CARE
MANAGEMENT, and THE CINTAS CORPORATION
HEALTH PLAN,

Defendants.
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**DECLARATION OF
MABEL SUZANNE FAIRLEY**

**DOCUMENT
ELECTRONICALLY FILED**

MABEL SUZANNE FAIRLEY, pursuant to 28 U.S.C. §1746(2) declares the following:

1. I am an employee of United HealthCare Services, Inc. as a Legal Services Specialist in the Law Department. As part of its duties, the Law Department provides legal support for various United HealthCare, Inc. affiliates, including the defendant United HealthCare Insurance Company ("UHI"), incorrectly sued herein as United Health Care. As part of my responsibilities and duties in my position, I research and investigate the records regularly created and maintained by UHI in the regular course of its business. I am personally familiar with the pertinent facts raised by plaintiff's motion based on my experience in this position and based on my research in UHI's records. Specifically, my investigation into the issues raised by plaintiff in its pending motion for remand reveals the following:

2. UHI is a Connecticut corporation with its principal place of business at 450 Columbus Boulevard, Hartford, Connecticut.

3. UHI does not occupy an office at One Penn Plaza, 8th Floor, New York, New York. United HealthCare Insurance Company of New York occupies that office space.

4. UHI does not have any record of employing a person by the name of "Nelmira Garnes" on or about May 22, 2007.

5. UHI did not and never has appointed "Nelmira Garnes" as a general agent for service of process in New York.

6. UHI's authorized agent for service of process in New York is CT Corporation, 111 Eighth Avenue, New York, NY.

7. Annexed hereto as Exhibit "A" is a true and correct copy of the claim form received by UHI and the corresponding Explanation of Benefits issued by UHI in connection with this claim for services rendered to Thomas Everett on October 21, 2005. (The dates of birth and social security numbers of Thomas Everett and Daphne Everett have been redacted to avoid disclosure of personal data identifiers.)

8. The plan under which Thomas and Daphne Everett were enrolled is a self-funded plan established and maintained by the Cintas Corporation. UHI did not insure or underwrite payment of claims for the Cintas Plan. Rather UHI only provided certain administrative services to the Cintas Plan. Annexed hereto as Exhibit "B" is a true and correct copy of the Administrative Services Agreement entered into between UHI and Cintas for the Cintas Health Plan.

9. Daphne Everett had been eligible and enrolled in the Cintas Plan as a participant. Cintas notified UHI that on or prior to October 21, 2005, Daphne Everett and her dependents, including Thomas Everett, were no longer eligible and their enrollment was terminated from the Cintas Plan. UHI was not advised by Cintas that Daphne Everett elected continuation of coverage under COBRA.

Dated: Kingston, New York
July 24, 2007

I declare under penalty of perjury that the foregoing
is true and correct.


MABEL SUZANNE FAIRLEY

CERTIFICATE OF SERVICE

I, MICHAEL H. BERNSTEIN, hereby certify and affirm that a true and correct copy of the attached **DECLARATION OF MABEL SUZANNE FAIRLEY** was served via ECF and Regular Mail on this 25th day of July, 2007, upon the following:

Abraham Wax, Esq.
Abraham Wax, P.C.
Attorney for Plaintiff
750 Third Avenue
New York, NY 10017

s/_____
MICHAEL H. BERNSTEIN (MB-0579)

Dated: New York, New York
July 25, 2007